

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

Civil Action No. 1:20-cv-1181

v.

MICHAEL W. ACKERMAN,

Defendant.

**[PROPOSED] FINAL DEFAULT JUDGMENT
AGAINST DEFENDANT MICHAEL ACKERMAN**

Plaintiff Securities and Exchange Commission has moved this Court to enter a final judgment by default against Defendant Michael W. Ackerman (“Ackerman” or “Defendant”) imposing permanent injunctive relief and disgorgement to be deemed satisfied by the restitution entered against Ackerman in the parallel criminal case, *CFTC v. Ackerman*, 1:20-cv-01183-NRB (SDNY), *U.S. v. Ackerman*, 20-cr-00093-LTS (SDNY), and has voluntarily dismissed the request for a civil monetary penalty. The Court has carefully considered the Complaint, the allegations of which are well-pleaded and hereby taken as true, the Commission’s memorandum in support of its Motion, other written submissions filed with the Court, and the record in this case, and being fully advised in the premises, it is hereby:

ORDERED that the Plaintiff’s Motion for Final Judgment by Default, Permanent Injunction, Civil Monetary Penalty, and Other Statutory and Equitable Relief is **GRANTED**.

I. Permanent Injunction

A. Section 10(b) and Rule 10b-5 of the Exchange Act

IT IS HEREBY ORDERED AND ADJUDGED THAT that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities

Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

B. Section 17(a) of the Securities Act

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;

- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

II. Disgorgement and Prejudgment Interest

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$27,180,574, representing net profits gained as a result of the conduct alleged in the Complaint, and prejudgment interest thereon of and \$3,122,944.62, for a total of \$30,303,518.62 which is DEEMED SATISFIED by the Court's order of restitution in the amount of \$31,661,835 in the parallel criminal case, *U.S. v. Ackerman*, 20-cr-00093-LTS (SDNY).

III. Civil Money Penalty

IT IS FURTHER ORDERED AND ADJUDGED that the request for a civil money penalty has been voluntarily dismissed by the Plaintiff and is therefore DISMISSED.

* * *

There being no just reason for delay, the Clerk of the Court is hereby ordered to enter this Final Judgment against Defendant Michael Ackerman without further notice.

IT IS SO ORDERED on this ____ day of _____, 2022.

UNITED STATES DISTRICT JUDGE